



**BOARD OF ADJUSTMENT
CITY OF SCOTTSDALE
3939 NORTH DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA
DECEMBER 7, 2005**

APPROVED MINUTES

PRESENT: Terry Kuhstoss, Chair
Jennifer Goralski, Board Member
Ernest Jones, Board Member
Carol Perica, Vice-Chair
Neal Waldman, Board Member
James Vail, Board Member

ABSENT: Howard Myers, Board Member

STAFF PRESENT: Tim Curtis
Sherry Scott
Al Ward
Kira Wauwie

CALL TO ORDER

The regular meeting of the Scottsdale Board of Adjustment was called to order by Chair Kuhstoss at 6:01 p.m.

ROLL CALL

A formal roll call confirmed the members present as stated above.

1. **ADMINISTRATIVE ITEMS**

Amendment to the Rules of Procedure to add Rule 407-Reconsiderations, which restricts the Board's ability to hear or consider reconsiderations.

Chair Kuhstoss withdrew the motion with regard to Option A, suggesting a motion for Option B.

BOARD MEMBER JONES MOVED TO APPROVE OPTION B. SECONDED BY BOARD MEMBER VAIL, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

APPROVED 2/1/2006

WITHDRAWALS

Chair Kuhstoss acknowledged the following case withdrawals:

2. [9-BA-2005](#) (Lombardi Residence), request for a Variance from Article V. Section 5.404.E.2 regarding the required side yard setback.
3. [10-BA-2005](#) (New Retail shops @ Fry's Marketplace), request a Variance from Article V. Section 5.1504.C.1 regarding open space requirement.

CONTINUANCES

4. [11-BA-2005](#) (Lamalfa Residence), request for a Variance from Article V. Section 5.014.E.1.b regarding double frontage on the required front yard setback.

CHAIR KUHSTOSS MOVED TO ALLOW THE CONTINUANCE OF 11-BA-2005. SECONDED BY VICE-CHAIR PERICA, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

APPROVAL OF MINUTES

5. October 5, 2005 Board of Adjustment Minutes

VICE-CHAIR PERICA MOVED TO APPROVE THE OCTOBER 5, 2005 MINUTES OF THE REGULAR MEETING AS PRESENTED. SECONDED BY BOARD MEMBER VAIL, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

6. October 5, 2005 Board of Adjustment Study Session

VICE-CHAIR PERICA MOVED TO APPROVE THE OCTOBER 5, 2005 MINUTES OF THE STUDY SESSION AS PRESENTED. SECONDED BY BOARD MEMBER VAIL, THE MOTION CARRIED UNANIMOUSLY WITH A VOTE OF SIX (6) TO ZERO (0).

REGULAR AGENDA

Chair Kuhstoss read the opening statement that describes the role of the Board of Adjustment and the procedures used in conducting this meeting.

7. [13-BA-2005](#) (Cobb Residence), request a variance from Article V. Section 5.204.G regarding walls, fences and landscaping within the required side yard and Article VII. Section 7.104 regarding height limitations on fences, hedges, shrubbery, etc., on corner lots.

Kira Wauwie presented the case pursuant to the staff packet. Highlights of the presentation included an aerial of the site location and noted key lots slide denoting front yard relationships, an overview of site conditions and criteria for a variance.

In response to inquiry by Vice-Chair Perica, Ms. Wauwie explained that a key lot occurs when the rear yard of a corner lot abuts to an adjacent mid-block lot. And that adjacent yard of the mid-block lot is a side yard. In response to inquiry by Board Member Vail, Ms. Wauwie confirmed that the previous wall was in conformance. A portion of the previous wall was removed in order to construct the new wall.

William Cobb, Applicant, addressed the Board. Mr. Cobb explained that the new wall is the third phase of three phases of remodeling work performed on the property. The first phase was interior. The second phase was construction of a guest house that was permitted through the City. The builder was instructed to discuss the third phase with the City, which consisted of renovation work on the exterior landscaping of the property. The wall was illegally built based upon improper information and interpretation of that information, on behalf of the builder.

Mr. Cobb's presentation focused on justifications in support of the zoning ordinance variance request and characteristics of the neighborhood, arguing that the variance request is for a project that is more consistent with the norm in the neighborhood. Highlights included photographs of walls and vegetation in the area. He noted that the proposed wall incorporates the variance and the existing setback. The two neighbors to the east are in concurrence with the placement of the proposed wall and report no line-of-site issues.

In conclusion, Mr. Cobb requested that the Board approve the variance request, opining that it allows an upgrade to the house that is consistent with, rather than detrimental to, the neighborhood.

Board Member Waldman expressed understanding the goals Mr. Cobb is attempting to accomplish, but believes that the proposal does not meet the established requirements for special criteria and is therefore unable to support the variance.

Board Member Goralski does not feel that the four criteria have been met on this particular property and cannot support the variance.

Vice-Chair Perica agreed with fellow Board Members. She concurred with Mr. Cobb that the proposed project would be an upgrade and acknowledged that perhaps the same upgrades have been made to other properties in the neighborhood, but the function of the Board of Adjustment is to adhere to the zoning ordinance and ensure that the four criteria are met. She opined that the criteria have not been met.

Board Member Vail noted difficulty in obtaining an overview of the properties around 101st due to the construction in the area. He noted that the key lot provision prevents the Board from the ability to justify all four of the criteria. He therefore, will vote in opposition.

Board Member Jones agreed with fellow Board Members, elaborating that the wall section does not fully lend itself to the kind of variance request in front of the Board.

BOARD MEMBER GORALSKI MOVED TO DENY 13-BA-2005. SECONDED BY VICE-CHAIR PERICA, THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF SIX (6) TO ZERO (0).

- 8 [14-BA-2005](#) (Crompton Residence), request a variance from Article V. Section 5.204.E.1.a regarding front yard depth and Article V. Section 5.204.E.1.c regarding the required front yard to be provided on both streets on a corner lot.

Al Ward presented the case pursuant to the staff packet. Highlights of the presentation included an aerial photo, zoning map, plat map, color photographs, and overview of the request, as well as the zoning ordinance requirement. He addressed the specific criteria for the variance. Neighbors have not objected to the proposal and the HOA has approved the proposed improvements.

In response to inquiry by Vice-Chair Perica, Mr. Ward explained that denial of the 3-foot variance request would result in the elimination of 219 square feet out of the addition.

In response to inquiry by Vice-Chair Perica, Ms. Scott recommended addressing the two variance requests in separate motions.

In response to inquiry by Board Member Jones, Mr. Ward explained that preparation of the packet was a joint effort between staff and the Applicant. Board Member Jones opined that the packet was very well put together; the nicest one he has seen.

Board Member Waldman noted comments made by Mr. Ward during his presentation. Mr. Ward clarified that there is an opportunity to place the addition in such a way that the setbacks would be met.

In response to inquiry by Board Member Jones, Mr. Ward explained that the proposed addition is for bedrooms and living space.

Alison Crompton, Applicant, addressed the Board. Ms. Crompton explained that her parents declining health is the reason for the addition to the house. The addition will accommodate her desire to have her parents move into the home. Ms. Crompton presented supporting information to justify the request for the specific location of the proposed addition. She explained that the property lot line is tapered in in the back, which is created by the curvature of the street. She presented a brief overview of the proposed addition. Highlights of the presentation included a drawing depicting the height of the new addition.

Ms. Crompton addressed the Board regarding the proposed drive through Portico. Highlights of the presentation included color photographs of various Porticos currently in the neighborhood. Ms. Crompton noted that the Portico addition is an attempt to enhance and add elegance to the property, which she opined is one of the older, smaller homes in the area neighborhood.

In response to inquiry by Board Member Vail, Ms. Crompton confirmed that the HOA permits parking under the Portico. In response to additional comments by

Board Member Vail, Ms. Crompton explained the plans proposed for the front yard landscaping in conjunction with the Portico addition.

In reply to a question by Board Member Waldman, Ms. Crompton confirmed that the driveway to the garage is the only entrance to the front of the property.

Chair Kuhstoss noted that the two proposals will be treated as two separate variance requests and opened discussion pertaining to the 3-foot setback.

Board Member Waldman opined that the special circumstance is supported due to the curve. He noted that the variance will not affect other properties one way or the other. The Applicant did not create the circumstance regarding the curved street. The addition will not be detrimental to neighbors. He is therefore inclined to approve the addition with a 3-foot variance.

Board Member Goralski agreed wholeheartedly with Board Member Waldman. She noted that the curvature of the street is a special circumstance and can support the variance.

Vice-Chair Perica complimented the Applicant's presentation and expressed appreciation for the Applicant's honesty. She concurred with fellow Board Members that the four criteria have been met and she will vote for approval of the variance.

Board Member Vail concurred that all four criteria have been met and he will support the variance.

Board Member Jones agreed, concurring with fellow Board Members.

Chair Kuhstoss noted issues with the 3-foot variance based on the fact that the addition could be built in compliance on the east side of the property.

BOARD MEMBER JONES MOVED TO APPROVE THE VARIANCE REQUEST OF THE 3-FOOT ADDITION OF CASE 14-BA-2005. VICE-CHAIR PERICA SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ONE (1). CHAIR KUHSTOSS DISSENTED.

With regard to the Portico, Board Member Waldman opined that the removal of the turf and fountain will result in decrease in water usage, and such will therefore create a special circumstance. The Portico supports the character of the other properties in the area. The Applicant did not create any certain circumstances. He opined that building the addition will improve the character and will not be detrimental to neighbors. Board Member Waldman will therefore vote to approve the variance.

Board Member Goralski expressed understanding for the Applicant's desires and supports the decision for the circular driveway; however, does not feel that the circumstances have been met for the construction of the Portico.

Vice-Chair Perica agreed with Board Member Goralski. She commended the Applicant for the proposal and believes that it would be a beautiful addition;

however, does not feel that the Portico meets the four criteria of the ordinance. She will vote to deny the variance.

Board Member Vail noted that the proposal falls a little short on meeting all four criteria for the Portico; however, in light of the decreased water usage and landscaping, he believes the view can be stretched to encompass all of the criteria. He will support the addition of the Portico.

Board Member Jones expressed support for the variance.

Board Member Waldman reiterated that part of his consideration in stretching on the special circumstances with regard to the Portico and the circular drive, support the reason for the addition of the house as far as the elderly parents are concerned. He noted the importance of the ability to drive up to the house in a sheltered way rather than through the garage, which is an additional 30 feet away.

Chair Kuhstoss opined that the Portico is a lovely idea, but does not believe that it meets the criteria the Board is charged with enforcing. She will vote against the variance.

BOARD MEMBER VAIL MOVED TO APPROVE THE REQUEST FOR CONSTRUCTION OF THE PORTICO OF CASE 14-BA-2005. SECONDED BY BOARD MEMBER WALDMAN, THE MOTION FAILED BY A VOTE OF THREE (3) TO THREE (3). BOARD MEMBER GORALSKI, CHAIR KUHSTOSS AND VICE-CHAIR PERICA DISSENTED.

ADJOURNMENT

With no further business to discuss, being duly moved and seconded, the meeting adjourned at 7:11 p.m.

Respectfully submitted,
A/V Tronics, Inc.